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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.		
10/537,481	11/14/2005	Christopher Thomas Elsworthy	12867-5	3347		
60840	7590	12/12/2008	EXAMINER			
MICHAEL, BEST & FRIEDRICH LLP 100 EAST WISCONSIN AVENUE SUITE 3300 MILWAUKEE, WI 53202				MULLER, BRYAN R		
ART UNIT		PAPER NUMBER				
3727						
MAIL DATE		DELIVERY MODE				
12/12/2008		PAPER				

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/537,481	ELSWORTHY ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	BRYAN R. MULLER	3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 22 August 2008.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-8 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-8 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 06 February 2008 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date _____.	6) <input type="checkbox"/> Other: _____ .

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

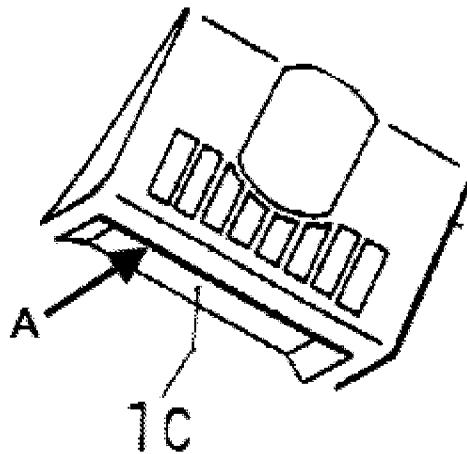
1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

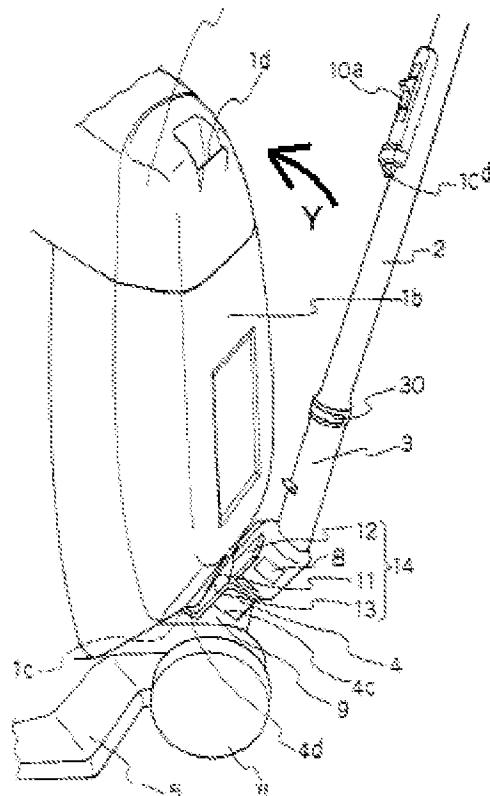
2. Claims 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Yoshimi et al. (6,058,559).

3. In reference to claim 1, Yoshimi discloses a suction cleaner of the cylinder type comprising a main unit (1) including a source of suction and a separator arrangement; a flexible hose (6) and a wand (2) with a cleaning head (5) attached thereto; wherein the main unit is configured to stand on an end (as seen in Fig. 1) further comprising a first releasable catch formation (4d and the ridge formed by 1c; A below) and a second releasable catch formation (1d and 10) each configured to connect the wand to the main unit, wherein, when connected to the main unit, part of the wand lies at least partially within a recess provided in the main unit (part 4d is considered to be part of the wand, and is positioned within recess 1c, which is part of the main unit), the recess extending at least partially between the first releasable catch formation and the second releasable catch formation disposed on the main unit (the recess 1c clearly extends upwardly into the main unit from ridge A, the first catch formation on the main unit, toward formation 1d, the second catch formation on the main unit, thus the recess 1c is considered to at least partially extend between the first and second catch formations on the main unit).



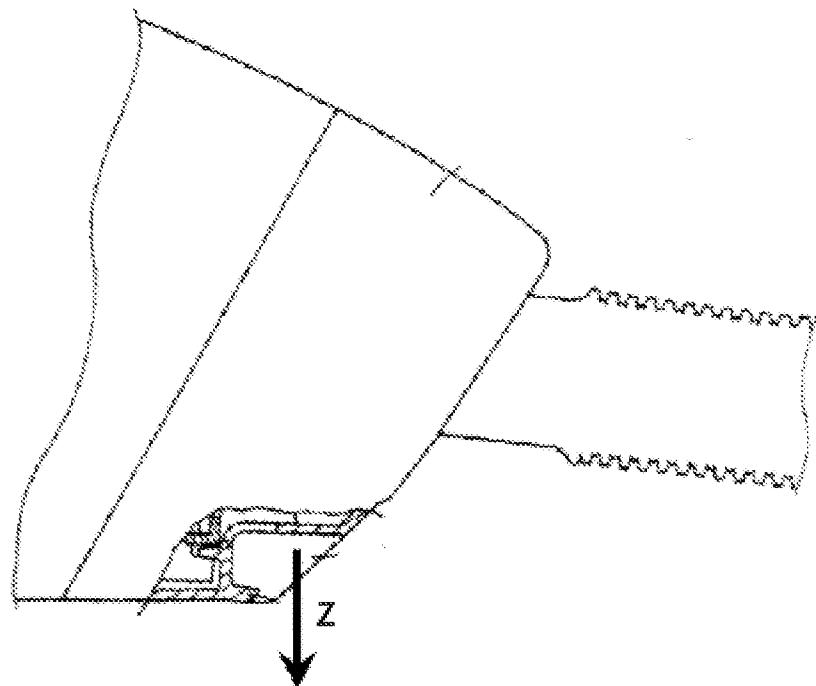
4. In reference to claim 2, the structure disclosed by Yoshimi, providing a support (4d) beneath the main unit, will inherently allow a user to lift the main unit by using the wand as a handle when the wand is connected to the main unit.
5. In reference to claim 3. Yoshimi further discloses that the recess is defined upon an underside of the main unit when the main unit is in a normal use orientation. Recess 1c is positioned on the underside of the main body when used in the orientations shown in Figs. 1 and 13, which are both considered to be orientations of normal use.
6. In reference to claim 4, Yoshimi further discloses that the first releasable catch formation comprises first inter-engaging catch formations (the ridge formed by 1c; A below; and 4d) provided respectively on the main unit and on the cleaning head (5) and wherein the second releasable catch formation comprises second inter-engaging catch formations (1d and 10) provided respectively on the main unit and on the wand spaced from the cleaning head.
7. In reference to claim 5, Yoshimi further discloses that, to engage the first and second catch formations, a user would inherently have to place the main unit (1) onto

the first catch structure (4d) on the cleaning head, which will be moving the wand upwardly relative to the main unit, and then pivot the wand relative to the main unit (in the direction of arrow Y below), which inherently includes a vector of movement upward relative to the main unit. Therefore, the second catch formations of Yoshimi are engagable by an upward movement of the wand relative to the main unit, with respect to the main unit when standing on the end (on top of cleaning head 5), both immediately prior to (during placement of main unit on formation 4d) and during engagement (rotational motion having vector of movement upward) of the formation (10) on the wand with formation (1d) on the main unit.



8. In reference to claim 6, the second catch formation (1d) on the main unit is a second recess that may be considered to be downwardly facing (as shown by arrow Z

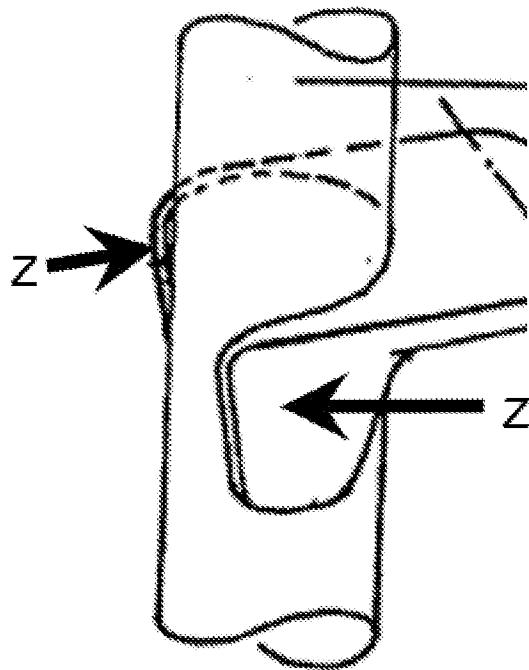
below) when the main unit is in the orientation to be used as a separate canister, wherein the lower surface 1b is positioned on or parallel to the ground (shown in Fig. 13), and the wand comprises a complementary projection (10) that is engagable with the second recess (1d).



9. Claims 1 and 3-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Busalt et al. (GB 2128075A).

10. In reference to claim 1, Busalt discloses a suction cleaner of the cylinder type comprising a main unit (1) including a source of suction and a separator arrangement; a flexible hose (2) and a wand (4) with a cleaning head (5) attached thereto; wherein the main unit is configured to stand on an end (as seen in Fig. 1) further comprising a first releasable catch formation (shown in Fig. 2) and a second releasable catch formation

(shown in Fig. 3) each configured to connect the wand to the main unit, wherein, when connected to the main unit, part of the wand lies at least partially within a recess provided in the main unit (a portion of the wand 4 is positioned within the recess within catch formation 8, which is part of the main body), the recess extending at least partially between the first releasable catch formation and the second releasable catch formation disposed upon the main unit (the recess formed between sidewalls Z below clearly extends from an upper portion of the second catch formation toward the first catch formation on the main body, thus may be considered to at least partially extend between the first and second catch formations).

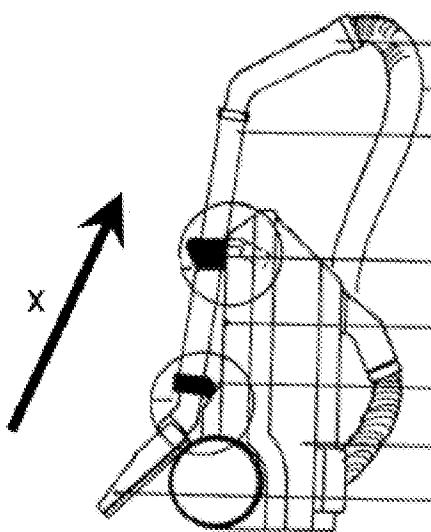


11. In reference to claim 3, Busalt further discloses that said recess is defined on the underside of the main unit when the main unit is in its normal use orientation.

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12. In reference to claim 4, Busalt further discloses that the first releasable catch formation comprises first inter-engaging catch formations (7 and 11) provided respectively on the main unit and on the wand in the vicinity of the cleaning head and wherein the second releasable catch formation comprises second inter-engaging catch formations (8 on the main body and the wand itself, or outer circumference thereof is considered to be the second catch formation on the wand) provided respectively on the main unit and on the wand spaced from the cleaning head.

13. In reference to claim 5, the second catch formations (8 and the outer circumference of the wand, which is spaced away from the cleaning head) are inherently capable of being engagable by an upward movement of the wand relative to the main unit with respect to the main unit when standing on the end. In the orientation of the main body, shown in Fig. 1, the wand may be moved upwardly and toward the bottom of the main unit (in the general direction of arrow X, shown below) in order to engage the second catch formations.



***Claim Rejections - 35 USC § 103***

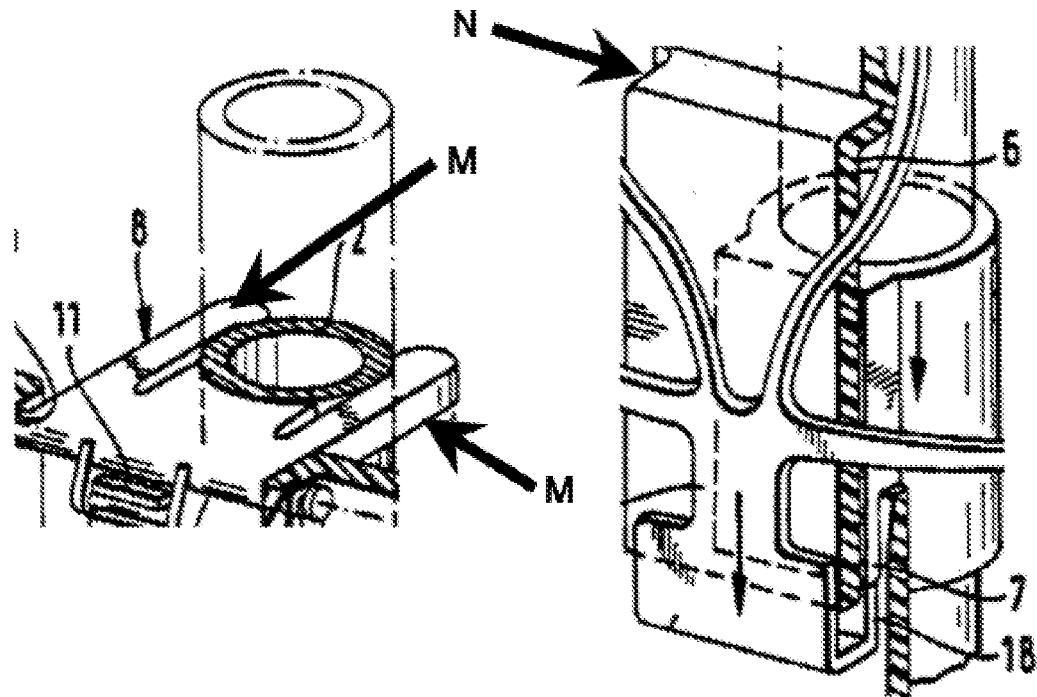
14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. Claims 1, 3-5 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bach et al. (5,125,127).

16. In reference to claim 1, Bach discloses a suction cleaner of the cylinder type comprising a main unit (4) including a source of suction and a separator arrangement; a flexible hose (1) and a wand (2) with a cleaning head (3) attached thereto; wherein the main unit is configured to stand on an end (as seen in Fig. 1) further comprising a first releasable catch formation (6 and 7) and a second releasable catch formation (8 and the portion of the wand that engages 8) each configured to connect the wand to the main unit, wherein, when connected to the main unit, part of the wand lies at least partially within a recess provided in the main unit (portion of catch 7 that is considered to be part of the wand is positioned within the recess formed by portion 6, which is part of the main body), the recess extending at least partially between the first releasable catch formation and the second releasable catch formation disposed on the main unit (the recess formed by portion 6 clearly extends upwardly from the first catch formation 6 on the main unit, along the base of the main unit, toward second catch formation 8 on the main unit, thus the recess is considered to at least partially extend between the first

and second catch formations on the main unit). However, Bach fails to specifically disclose that the main unit comprises a source of suction and a separator arrangement but the Examiner hereby takes official notice that it is old and well known in the art for vacuum cleaners to comprise a suction source and separator arrangement in the main body to provide the necessary functions of sucking up dirt or debris and separating the dirt or debris from the air. Therefore, it would have been obvious to provide the main unit of the Bach vacuum cleaner with a source of suction and a separator arrangement for the vacuum cleaner to effectively function as a vacuum cleaner.



17. In reference to claim 3, Bach further discloses that said recess is defined on the underside of the main unit when the main unit is in its normal use orientation.

18. In reference to claim 4, Bach further discloses that the first releasable catch formation comprises first inter-engaging catch formations (6 and 7) provided

respectively on the main unit and on the wand in the vicinity of the cleaning head and wherein the second releasable catch formation comprises second inter-engaging catch formations (8 on the main body and the wand itself, or outer circumference thereof is considered to be the second catch formation on the wand) provided respectively on the main unit and on the wand spaced from the cleaning head.

19. In reference to claim 5, the second catch formations (8 and the outer circumference of the wand, which is spaced away from the cleaning head) are inherently capable of being engagable by an upward movement of the wand relative to the main unit with respect to the main unit when standing on the end. In the orientation of the main body, shown in Fig. 1, the wand may be moved upwardly and toward the bottom of the main unit (in the same general direction of arrow X, shown above for the Busalt reference) in order to engage the second catch formations.

20. In reference to claim 7, Bach further discloses that the first releasable catch formation on the main unit comprises an upwardly extending member (18) to engage a complementary formation (end of 7) on the wand, and a spring (10) configured to bias the wand so as to urge the respective second inter-engaging catch formations into engagement. The engagement of portions 7 with portion 18 causes the wand to bias the catch formation (8) on the second catch formation to extend from the main unit to allow the wand to engage the second catch formation. Thus, the spring biases the wand in a manner that causes the second catch formation to be accessible for engagement.

21. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Busalt et al. (GB 2128075A) in view of Barski (DE 3834686 C1).

22. Busalt discloses the suction cleaner, as discussed supra, having a second catch formation toward the top of the main unit (when in an upright orientation), but fails to disclose that the second catch formation is associated with a castor assembly.

Barski discloses a similar vacuum cleaner having a catch formation (12, 13) toward the top of a main unit (when in an upright orientation), and teaches that the catch formation may be associated with a castor assembly (2) to allow the main unit to smoothly and easily move across the floor when being used as a separate canister unit. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to replace the second catch formation on the main unit of Busalt with the castor/catch formation of Barski to allow the main unit to smoothly and easily roll across a surface while being used as a canister unit, separated from the wand and cleaning head.

#### ***Response to Arguments***

23. Applicant's arguments filed 8/22/2008 have been fully considered but they are not persuasive. The applicant argues that none of the Yoshimi, Busalt or Bach reference include a recess that at least partially extends between a first releasable catch formation and a second releasable catch formation. However, as discussed in the rejections above, each of the references does clearly provide such a recess. The applicant further argues that portions 4d and 10 of Yoshimi are not part of the wand of Yoshimi, portion 8 of Busalt is not part of the main unit of Busalt and parts 7 and 8 of

Bach are not parts of the wand and main unit of Bach, respectively. However, the Examiner maintains that each of these parts being connected to the wand or main unit, respectively, are considered to be parts of the respective wands or main units. Therefore, the Examiner maintains that the references discussed supra, either anticipate or make obvious all of the claimed limitations.

***Conclusion***

24. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Dyson (4,571,772), Kim (6,374,453) and Barker et al. (2005/0028317) all disclose vacuum cleaners having similar structure and function as the applicant's claimed invention.

25. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BRYAN R. MULLER whose telephone number is (571)272-4489. The examiner can normally be reached on Monday thru Friday 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Monica S. Carter can be reached on (571) 272-4475. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Bryan R Muller/  
Examiner, Art Unit 3727  
12/3/2008